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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,265	08/23/2001	Bart C. Thielges	LANDP00001	1181

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EXAMINER
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LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
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3624

NOTIFICATION DATE	DELIVERY MODE
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08/20/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

notices@rolnikiplaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/938,265	<b>Applicant(s)</b> THIELGES ET AL.	
	<b>Examiner</b> JOHNNA R. LOFTIS	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-142 is/are pending in the application.
- 4a) Of the above claim(s) 1-41 and 49-142 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of claims 42-48 in the reply filed on 6/1/09 is acknowledged.

### ***Response to Arguments***

2. Applicant's arguments, filed 1/8/09 with respect to claims have been considered but are moot in view of the new ground(s) of rejection.
3. Previous rejections of claims 42-48, under 35 USC 101, have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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5. Claims 42 and 44-48 rejected under 35 U.S.C. 102(e) as being anticipated by Ruben et al, US 7,143,049.

As per claim 42, Ruben et al teaches receiving a service request from a service requestor, the service request being transmitted to the system, the service request being associated with a property having a management affiliation (column 11, line 50 – column 12, line 52 – service requests are created by tenants, property owners or property managers); identifying, with the property management system, a property manager by successively reviewing increasingly more general descriptions of the management affiliation until a property manager is identified (column 12, lines 1-52 and column 13, lines 45-55 – the appropriate entity is identified once the user selects the type of service needed – a list of vendors that can perform the needed service is displayed – inherently general descriptions of the vendors are reviewed so only those who perform needed services are displayed); and relaying at least part of the service request from the requestor to the property manager (column 13, lines 45-54 – vendor is selected and request is made and transmitted to the vendor over the internet).

As per claim 44, Ruben et al teaches the service requestor is a tenant of the property associated with the service request, the tenant having access to the property management system (column 12, lines 1-24).

As per claim 45, Ruben et al teaches receiving a service request from a service requestor, the service request being transmitted to the system, the service request being associated with a property having a management affiliation (column 11, line 50 – column 12, line 52 – service requests are created by tenants, property owners or property managers); identifying, with the property management system, a property manager or property owner by successively reviewing

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increasingly more general descriptions of the management affiliation until a property manager or property owner is identified (column 12, lines 1-52 and column 13, lines 45-55 – the appropriate entity is identified once the user selects the type of service needed – a list of vendors that can perform the needed service is displayed – inherently general descriptions of the vendors are reviewed so only those who perform needed services are displayed); and relaying at least part of the service request from the requestor to the property manager or property owner identified (column 13, lines 45-54 – vendor is selected and request is made and transmitted to the vendor over the internet).

As per claim 46, Ruben et al teaches the service requestor is a tenant of the property associated with the service request, the tenant having access to the property management system (column 12, lines 1-24).

As per claim 47, Ruben et al teaches receiving a service request from a service requestor, the service request being transmitted to the system, the service request being associated with a property having a management affiliation (column 11, line 50 – column 12, line 52 – service requests are created by tenants, property owners or property managers); identifying, with the property management system, a property manager or property owner by successively reviewing increasingly more general descriptions of the management affiliation until a person other than the property manager is identified (column 12, lines 1-52 and column 13, lines 45-55 – the appropriate entity is identified once the user selects the type of service needed – a list of vendors that can perform the needed service is displayed – inherently general descriptions of the vendors are reviewed so only those who perform needed services are displayed); and relaying at least part

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of the service request from the requestor to the person (column 13, lines 45-54 – vendor is selected and request is made and transmitted to the vendor over the internet).

As per claim 48, Ruben et al teaches the service requestor is a tenant of the property associated with the service request, the tenant having access to the property management system (column 12, lines 1-24).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 43 rejected under 35 U.S.C. 103(a) as being unpatentable over Ruben et al, US 7,143,048.

As per claim 43, the sole difference between the primary reference and the claimed subject matter is that the primary reference does not disclose the hierarchical tree traversal through successive hierarchical levels towards the root of a hierarchical tree, as claimed. Official notice is taken that such hierarchical tree traversal was known in the prior art at the time of the invention. Since each individual element and its function are shown in the prior art, albeit shown in separately, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself – that is in the substitution of the hierarchical tree traversal of the secondary reference for the selection of appropriate vendor of the primary reference.

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Thus, the simple substitution of one known element for another producing a predictable result renders the claim obvious.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

BuildingLink.com, 2000

BJM Central (bjmurray.com), 10 May 1999

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brad Bayat can be reached on 571-272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Johnna R Loftis/  
Examiner, Art Unit 3624